

Draft Regulation Order

Regulation to Control Emissions from In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks

Adopt article X, within chapter X, division X, title 13, California Code of Regulations, and section XXXX, to read as follows:

Section XXXX. Purpose and Definitions of Control Measure

- (a) **Purpose.** The purpose of this regulation is to reduce emissions and public exposure to diesel particulate matter (PM), oxides of nitrogen (NOx), and other air contaminants by setting emission standards for in-use, heavy-duty diesel-fueled vehicles that transport cargo to and from California's ports and intermodal rail facilities.
- (b) **Applicability.**
- (1) This regulation applies to "motor carriers", "marine or port terminals", "rail yard and port authorities", "drayage truck owners", and "intermodal rail yards" as defined in subsection (c).
 - (2) This regulation does not apply to:
 - (A) specialized use vehicles as defined in subsection (c)(28).
 - (B) vehicles operating under an ARB authorized emergency decree; e.g. any vehicle used to aid in the clean up or rescue efforts of a disaster.
 - (C) authorized emergency vehicles as defined in subsection (c)(3);
 - (D) military combat and tactical support equipment as defined in subsection (c)(17);
 - (E) vehicles that operate at port or rail yard properties where revenue tonnage yielded by the port or rail yard is no more than two million tons annually.
 - (3) **Severability.** If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent

provision, and such holding shall not affect the validity of the remaining portions of the regulation.

(c) **Definitions.** For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 shall apply except to extent that such definitions may be modified by the following definitions that apply specifically to this regulation.

- (1) “ARB” means the California Air Resources Board.
- (2) “ARB Designees” are defined as those entities that ARB designates or contracts with to perform certain functions or provide specific services on its behalf under this regulation.
- (3) “Authorized Emergency Vehicle” is as defined in Vehicle Code section 165.
- (4) “Bill of Lading” is a document that states the terms of the contract between a shipper and a transportation company. It serves as a document of title, a contract of carriage and a receipt for goods.
- (5) “Class I Railroad” is a freight railway based on large revenues (\$250 million or more) in comparison to Class II (which ranges from greater than \$20 million but less than \$250 million) and Class III (less than \$20 million) railways, as defined by the Surface Transportation Board (STB).
- (6) “Compliance Sticker” is a tag issued by the Air Resources Board for heavy-duty drayage trucks, subsection (c)(13), that meet subsection (d) of this regulation.
- (7) “Diesel Fuel” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture or primarily liquid hydrocarbons (HC) – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented by the supplier as suitable for use in an internal combustion, compression – ignition engine.
- (8) “Drayage Truck” means any in-use on-road vehicle with a GVWR of 33,000 pounds or greater operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

- (9) "Drayage Truck Owner" means:
- (A) the person registered as the owner of a drayage truck as shown by the Department of Motor Vehicles, or its equivalent in another state, province, or country; or the International Registration Plan
- or
- (B) a lessee of the truck.
- (10) "Drayage Truck Registry (DTR)" is an ARB database that contains information on all trucks that conduct business at California ports and intermodal rail yards.
- (11) "Executive Officer" is the Executive Officer of ARB or his/her designee.
- (12) "Gross Vehicle Weight Rating (GVWR)" is as defined in Vehicle Code Section 360.
- (13) "Heavy-Duty" is a manufacturer's gross vehicle weight rating of 33,000 or more pounds.
- (14) "Intermodal Rail Yard" is any rail facility within 50 miles of a port where cargo is transferred from truck to train or vice versa. Intermodal rail yards include, but are not limited to, the following facilities: Union Pacific (UP) Oakland, Burlington Northern Santa Fe (BNSF) Hobart, LATC Union Pacific, Commerce UP, Richmond BNSF, Commerce Eastern BNSF, ICTF UP, San Bernardino, Stockton Intermodal BNSF, Lathrop Intermodal UP, and BNSF Oakland.
- (15) "Legacy Truck" is an intermodal truck that has been dispatched to a port or an Intermodal rail yard between January 1, 2005 and December 31, 2007 and is registered with the Drayage Truck Registry (DTR) by December 31, 2008.
- (16) "Marine or Port Terminals" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. The term does not include production or manufacturing areas nor does the term include storage facilities directly associated with those production or manufacturing areas.

- (17) "Military Combat and Tactical Support Equipment" means equipment owned by the U.S. Department of Defense and/or the U.S. military services or its allies that is designed to meet military specifications and is used in combat, combat support, combat service support, tactical or relief operations or training for such operations.
- (18) "Motor Carrier" is a business intermediary that contracts with beneficial cargo owners, ship companies, port terminals or Class I railroads for pick-up and delivery of goods and with intermodal truck owners, who it dispatches to ports and/or intermodal rail yards to pick up and deliver such goods.
- (19) "Non-Legacy Truck" is a drayage truck that was:
- (A) not dispatched to a port or intermodal rail yard between January 1, 2005 and December 31, 2007
- or
- (B) is not registered in the Intermodal Truck Registry by December 31, 2008.
- (20) "On-road" means a vehicle that is registered by the California Department of Motor Vehicles (DMV) – or its equivalent in another state, province, or country; or the International Registration Plan -- or capable of being registered, and driven on public roadways.
- (21) "Oxides of Nitrogen (NO_x)" means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen, which are typically created during combustion processes and are major contributors to ozone, particulate matter, and acid deposition.
- (22) "Particulate Matter (PM)" is defined as the particles found in the exhaust of compression ignition engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.
- (23) "Port" is any facility used for water-borne commerce which typically consists of different terminals, where cargo is loaded onto and unloaded from ocean-going vessels. For the purposes of this regulation, ports include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburgh, and the Port of Benicia.

- (24) "Port Authority" means those entities, either public or private, that are responsible for the operation of the ports.
- (25) "Port Property" means the property constituting the physical boundaries, either contiguous or non-contiguous, of a port. For the purposes of this regulation, port property also includes privately owned property located within port boundaries.
- (26) "Rail Yard Authority" means those entities, either public or private, that are responsible for the operation of the Class I rail yards.
- (27) "Rail Yard Property" means the property constituting the physical boundaries of intermodal rail yards. For the purposes of this regulation, rail yard property also includes privately owned property located within rail yard boundaries.
- (28) "Specialized Use Vehicles", are uni-body vehicles that do not have separate tractor and trailers and include but are not limited to:
 - (A) Dedicated auto transports, and
 - (B) Dedicated fuel delivery vehicles
 - (C) Concrete mixers: and
 - (D) On-road Mobile Cranes
- (29) "Vehicle" is as defined in Vehicle Code Section 670.
- (30) "Verified Diesel Emission Control Strategy (VDECS)" is an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified by levels pursuant to the "Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines" in title 13, California Code of Regulations, commencing with section 2700. Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater.

(d) Requirements and Compliance Schedules.**(1) Schedule A: Legacy Trucks**

Engine Model Year	Compliance Deadline	Compliance Method
Pre – 1994	Dec. 31, 2009	Meet or exceed 2003 federal heavy-duty diesel-fueled engine standards and install a level 3 VDECS
1994 – 1997	Dec. 31, 2010	Meet or exceed 2003 federal heavy-duty diesel-fueled engine standards and install a level 3 VDECS
1998 – 2002	Dec. 31, 2011	Meet or exceed 2003 federal heavy-duty diesel-fueled engine standards and install a level 3 VDECS
2003 – 2006	Dec. 31, 2009	Install a level 3 VDECS

(2) Schedule B: Legacy Trucks

Engine Model Year	Compliance Deadline	Compliance Method
Pre – 2007	Dec. 31, 2019	Meet or exceed 2010 federal heavy-duty diesel-fueled engine standards

(3) Schedule C: Non-Legacy Trucks

Year Entering Service	Compliance Method
2008 - 2009	Meet or exceed 2003 federal heavy-duty diesel-fueled engine standards and install a level 3 VDECS
2010 - 2014	Meet or exceed 2007 federal heavy-duty diesel-fueled engine standards
2015 and later	Meet or exceed 2010 federal heavy-duty diesel-fueled engine standards

(4) Schedule D: Non-Legacy Trucks

Engine Model Year	Compliance Deadline	Compliance Method
Pre – 2007	Dec. 31, 2019	Meet or exceed 2010 federal heavy-duty diesel-fueled engine standards

(5) Drayage Truck Owner requirements:

(A) Drayage Truck Owners shall:

1. register with the DTR, according to subsection (g);
2. upon receipt of ARB issued DTR compliance sticker, affix sticker as required under subsection (g)(8);
3. ensure that all emission control devices are functioning properly;
4. maintain retrofit device per manufacturer's specifications; and
5. maintain and keep retrofit maintenance log in vehicle and make available upon request.

(B) Drayage Truck Owners may apply for a one-time, one-year, per-truck Schedule A compliance deadline extension. There are no extensions for Schedules B, C and D compliance deadlines. To receive the Schedule A compliance deadline extension, a drayage truck owner must demonstrate that his/her current truck and engine combination meet the following:

1. are registered with the DTR prior to January 1, 2009; and
2. that there is no emission control technology verified by ARB for use on that combination of truck and engine at the time the extension is filed.

If after the extension timeline has elapsed, and there is still no ARB verified technology available, the truck owner must comply by replacing the existing heavy duty truck and engine combination with one that meets or exceeds 2003 federal engine standards for NO_x emissions and has a level 3 VDECS diesel particulate filter installed.

(6) Motor Carrier requirements:

(A) Each motor carrier shall:

1. provide a copy of this regulation to the each drayage truck owner that it contracts with for deliveries to ports and intermodal rail yards;

2. ensure that all legacy trucks dispatched to a port or intermodal rail yard meet emission standards set forth in both compliance schedules A and B in subsection (d);
3. ensure that non-legacy trucks dispatched to a port or intermodal rail yard meet the emission standards set forth in both compliance schedules C and D in subsection (d);
4. ensure that all trucks dispatched to ports and intermodal rail yards are registered in the Drayage Truck Registry (DTR) and are properly affixed with an ARB issued compliance sticker according to subsection (g); and
5. ensure the dispatching motor carrier can be readily identified on the bill of lading. The bill of lading must contain the following motor carrier's information:
 - i. business name;
 - ii. contact person's name;
 - iii. street address, state, zip code of the business; and
 - iv. phone number.

(7) Marine or Port Terminals and Rail Yard Authorities requirements:

(A) Marine or Port Terminal and Rail Yard shall:

1. deny entry into port and intermodal rail yard properties when drayage trucks are not in compliance with the requirements set forth in subsection (d)(1-4).

(8) Port and Rail Yard Authorities requirements:

(A) Port and Rail Yard Authorities shall:

1. provide assistance to ARB and its designees in the implementation, enforcement, and outreach of this regulation.

- (e) **Penalties.** Violations of this section shall be subject to civil and or criminal penalties pursuant to California Health and Safety Code . Each day of which a violation occurs is a separate violation.
- (f) **Enforcement.** Enforcement of this section may be carried out by authorized representatives of ARB, port and rail yard authorities; peace officers as defined in California Penal Code, title 3, chapter 4.5, sections 830 et seq. and their respective law enforcement agencies; and authorized representatives of air pollution control or air quality management districts.
- (g) **Drayage Truck Registry Requirements and Sticker Standards.**
- (1) All drayage trucks doing business at a port or intermodal rail yard property must register annually with the DTR database and provide the following information to ARB or its designee by mail to the address listed below or electronically through ARB's DTR website (<http://www.arb.....>). The information shall include:
- (A) truck owner name, address, and contact information (e.g. phone number, email address, fax number);
 - (B) engine make, model, and model year;
 - (C) vehicle identification number (VIN);
 - (D) vehicle license number and state of issuance; and
 - (E) compliance status and detail, which includes:
 - 1. identifying whether the drayage truck has complied with the requirements of subsection (d)(1-4);
 - 2. how compliance was achieved (e.g. new compliant truck or description of the level 3 VDECS that was used, if applicable);
 - 3. identifying who did the installation work (if applicable);
 - 4. identifying when the installation work was completed (if applicable).

Mailed applications shall be sent to:

California Air Resources Board
c/o Drayage Truck Registry
P.O. Box 2815
Sacramento, CA, 95812

- (2) The executive officer or his/her designee shall issue a DTR compliance sticker to drayage truck owners who have submitted a completed DTR application that have been accepted and approved. The DTR sticker will be number coded by year to show compliance for that year. For example: in 2008, all compliant truck for this year will receive a 2008 encoded sticker.
- (3) Legacy Truck Owner Requirements
 - (A) All legacy trucks must meet or exceed the emission standards set forth in Schedules A and B, subsection (d).
 - (B) Annually register in the DTR database. Update truck information in DTR in the event there are changes to the vehicle's ownership, DMV registration status, or participation status in the international registration plan.
 - (C) Upon receipt of an DTR compliance sticker from ARB or its designee, the legacy truck owners must affix the sticker in accordance to subsection (g)(8).
- (4) Non-Legacy Trucks
 - (A) All non-legacy trucks must meet or exceed the emission standard stated in Schedules C and D, subsection (d).
 - (B) Annually register in the DTR database. Update truck information in DTR in the event there are changes to the vehicle's ownership, DMV registration status, or participation status in the international registration plan.
 - (C) Upon receipt of an DTR compliance sticker from the ARB or its designee, the non-legacy truck owner must affix the sticker in accordance to subsection (g)(8).
- (5) Within 10 days of bringing a legacy truck into compliance with Schedule A or B, the drayage truck owner must update the vehicle's compliance status information, required under subsection (g)(1), with the DTR.

- (6) Failure to register with the DTR or submittal of false information is a violation of state law and subject to civil penalty.
- (7) DTR compliance stickers will be mailed to drayage truck owners that have completed and submitted a registration application and are in compliance for the submittal year. These stickers will be number coded to denote compliance with regulation requirements or the year for which compliance is required.
- (8) All DTR compliance stickers shall be:
 - (A) located on or near the driver's side door;
 - (B) affixed to the truck in clear view, correct side up, un-obstructed; and kept and maintained in a manner that retains legibility.

(h) Relationship to Other Law. Nothing in this section allows intermodal trucks to operate in violation of other applicable law, including, but not limited to;

- (1) California Vehicle Code;
- (2) California Health and Safety Code;
- (3) division 3, title 13, California Code of Regulations;
- (4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, than the requirements of subsection (d) of this regulation.

Authority Cited: Sections 39600, 39601, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 43013, 43016, 43018, 43023, California Health and Safety Code.

Reference: Sections 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 40717.9, 43013, 43016, and 43018, 43023, California Health and Safety Code.